

29 September 2022

By Email: advicereview@treasury.gov.au

Secretariat, Quality of Advice Review
Financial System Division
Treasury
Langton Cres
Parkes ACT 2600

Dear Sir or Madam

Proposals Paper TAA Submission

This submission is made on behalf of the members of The Advisers Association Ltd (TAA) in response to Michelle Levy's Quality of Advice Review Proposals Paper. TAA values the consultative approach being taken by Treasury on this matter.

BACKGROUND

TAA is a non-profit member-based organisation established in 1925 that represents over 500 adviser businesses with over 1,000 advisers authorised by the Charter, Hillross and AMP Financial Planning licensees.

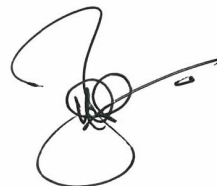
TAA supports policies that improve consumer access to accessible, affordable advice and recognise advice as a valued profession.

TAA has contributed to and agrees with the Joint Associations Working Group submission. We have used the standard template, which follows, to provide some additional comments for your consideration.

Yours sincerely
for The Advisers Association Ltd



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Name/Organisation: The Advisers Association Ltd (TAA)

Questions

Intended outcomes

- 1. Do you agree that advisers and product issuers should be able to provide personal advice to their customers without having to comply with all of the obligations that currently apply to the provision of personal advice?**

Yes, TAA agrees with this proposal. As noted, the current obligations tend to drive a 'tick the box' process, rather than focussing on the quality of the advice and ensuring a good consumer experience and outcomes.

The removal of the requirements to provide an SOA, ROAs and FDSs will enable advisers to apply their professional judgement, to deliver advice in the way consumers want, with documents that are clear, concise and effective that consumers will want to read.

In addition, the proposals reduce or remove the obligations to provide a significant amount of documentation and work that is not valued by clients, which ultimately increases the cost of providing advice to consumers and reduces access to those seeking advice.

What should be regulated?

- 2. In your view, are the proposed changes to the definition of 'personal advice' likely to:**
 - a) reduce regulatory uncertainty?**
 - b) facilitate the provision of more personal advice to consumers?**
 - c) improve the ability of financial institutions to help their clients?**

a) Yes. It will also remove any consumer confusion related to the term general advice, and remove any risk of 'general advice' being seen as personal advice.

b) Yes, it should as more providers will be able to give good advice, including digital advice providers.

c) Yes, it should and it has the benefit of removing the current ambiguity of the line between factual information, general advice and personal advice.

3. In relation to the proposed de-regulation of 'general advice' - are the general consumer protections (such as the prohibition against engaging in misleading or deceptive conduct) a sufficient safeguard for consumers?

a) If not, what additional safeguards do you think would be required?

Yes. There are strong consumer protections available within the proposed framework.

- a) TAA welcomes the removal of the 'general advice' definition but is concerned that consumers may not fully understand the difference between 'vertically integrated' product providers giving personal advice restricted to their own product and relevant providers with a best interests duty and tertiary level qualifications.

The proposed changes will make it easier for consumers to access good advice, which is better than not being able to access advice. The good advice obligation, combined with the current consumer protection laws and trustee and licensee obligations would continue to provide strong consumer protection.

However, to help consumers understand the differences between a relevant provider and a product provider giving good advice we strongly recommend the use of clear and different naming conventions for relevant providers with a Best Interests obligation and higher education standards, and an employee of a product provider. In previous submissions TAA has suggested the title 'product information provider', but recognises that consumers often want and think they are receiving advice, so on reflection, maybe applying similar terminology as used in the UK could be considered eg 'restricted adviser' for product issuers. This would make it clearer to consumers that those providers are restricted to providing advice on their own products.

How should personal advice be regulated?

4. In your view, what impact does the replacement of the best interest obligations with the obligation to provide 'good advice' have on:

- a) the quality of financial advice provided to consumers?**
b) the time and cost required to produce advice?

- a) The removal of general advice and the requirement to provide 'good advice' should improve the overall quality and quantity of financial advice provided. In addition, while the processes will change (eg less mandated documents and the removal of the safe harbour tick box approach) consumer outcomes should improve and strong consumer protection measures will still be in place. Importantly, the overall consumer and client experience will be much better for them.

- b) It will allow for more scaled and scoped advice that is relevant to consumers and the clients' particular needs at that time, which will reduce the time and cost to provide advice and make good advice more accessible.

5. What else (if anything) is required to better facilitate the provision of:

- a) **limited advice?**
- b) **digital advice?**

a) In addition to considering the Best Interests duty in the Corporations Act, the Code of Ethics also needs to be reviewed, and amended as required, particularly Standard 6, which deters many licensees and advisers from providing scoped advice and Standard 3, which is impractical and uncommercial.

b) TAA is concerned that digital advice can be provided without a person being ultimately responsible and the corporate provider having limited liability. Increasingly consumers want to be able to work with an advisory firm in a scalable way, perhaps with episodic personal advice and then digital advice for some transactions.

Advice firms also want to be able to provide digital advice to one group of clients (for example younger clients with simpler needs) and more complex and comprehensive personal advice to another group. The proposals may make this difficult as the advice firm always has a Best Interests duty as well as a good advice obligation. That issue may be resolved by reviewing the Code of Ethics, or clarifying the intent, etc.

6. In your view, what impact will the proposed changes to the application of the professional standards (the requirement to be a relevant provider) have on:

- a) **the quality of financial advice?**
- b) **the affordability and accessibility of financial advice?**

a) The quality of financial advice should continue to be high for current advisers. The proposals make it clearer to Trustees and product providers what is required when they move into this type of personal advice and remove the false security of general advice.

b) As mentioned earlier, there are some inconsistencies between Chapter 7 and the Code of Ethics and its Standards that could prevent the desired affordability and accessibility intentions from being realised.

7. In the absence of the professional standards, are the licensing obligations which require licensees to ensure that their representatives are adequately trained and competent to provide financial services sufficient to ensure the quality of advice provided to consumers?

a) If not, what additional requirements should apply to providers of personal advice who are not required to be relevant providers?

TAA thinks that licensee obligations to ensure adequate training and competency should be sufficient. However, TAA also believes that many Trustees providing personal advice will want more guidance and a consistent education and competency framework.

a) TAA considered the advantages and disadvantages of Trustees' needing to have some staff who supervised the advice provision, and them needing to meet the same education requirements as relevant providers. On balance, TAA decided that this may restrict access to affordable advice for consumers.

The second option TAA considered is that any supervising staff could complete an updated RG146 with core subjects at AQF7 level resulting in a Graduate Certificate.

This has several benefits:

1. It would give Trustees more comfort of what is expected,
2. ensure a more level playing field across all providers of advice, and
3. create a pool of Graduate Certificate level individuals who could use that as a good stepping stone into full relevant provider advice roles and qualifications,
4. This would then help to address the shortage of financial advisers and increase access to affordable advice for consumers.

Superannuation funds and intra-fund advice

8. Will the proposed changes to superannuation trustee obligations (including the removal of the restriction on collective charging):

a) make it easier for superannuation trustees to provide personal advice to their members?

b) make it easier for members to access the advice they need at the time they need it?

a) Yes, it should. TAA has some concerns about the potential conflicts in a vertically integrated organisation and that some advice is complex, such as transition to retirement advice and therefore should be charged separately.

While TAA understands the desire not to prescribe types of advice in the regulations, perhaps the regulator could provide examples of when Trustees should consider charging the consumer direct and being a relevant provider. In other words, collective charging should be permitted, but not seen as the only way

for Trustees to charge.

- b) Yes, especially if the 'option' for a trustee to accept a member advice fee payment direction to charge a fee to their super account is a 'requirement'.

Disclosure documents

9. Do the streamlined disclosure requirements for ongoing fee arrangements:

- a) **reduce regulatory burden and the cost of providing advice, and if so, to what extent?**
- b) **negatively impact consumers, and if so, how and to what extent?**

- a) Yes, a massive amount, as 80% of an established adviser's time is spent on reviews. The proposal makes the process much simpler, a better experience for the client and has no negative impact on consumer protection.
- b) We can't see how it could negatively impact consumers. Removing repetition from disclosure makes disclosure more meaningful.

10. Will removing the requirement to give clients a statement of advice:

- a) **reduce the cost of providing advice, and if so, to what extent?**
- b) **negatively impact consumers, and if so, to what extent?**

- a) Yes, it provides more flexibility on how advice is scoped, provided, and recorded. There are still obligations to maintain complete records of the advice and provide the advice in writing if the client requests it. Therefore, the licensee requirements for record-keeping, documentation, etc., may limit the cost savings to the SOA production cost, which ranges from \$400-700.

From a risk management perspective, some licensees will insist on all advice being documented to the client, possibly in the form of a letter of advice.

TAA also believe that the resulting reduction in the cost to serve will aide to lessen the current volumes of practice and adviser exits.

- b) Hard to see any negative impacts. The feedback we receive from our members is that most clients do not like or value the SOA. Importantly, consumers will still be provided with access to an FSG, terms of engagement, and can request advice in writing, etc.

11. In your view, will the proposed change for giving a financial services guide:

- a) **reduce regulatory burden for advisers and licensees, and if so, to what extent?**
- b) **negatively impact consumers, and if so, to what extent?**

- a) Yes, but not to a great extent as many licensees will probably still require evidence and documentation of which versions of the FSG were provided and that the latest version is provided when aspects of the FSG are changed.
- b) Can't see how this would negatively impact consumers, as they can still ask for a copy of the FSG.

Design and distribution obligations

12. What impact are the proposed amendments to the reporting requirements under the design and distribution obligations likely to have on:

- a) **the design and development of financial products?**
- b) **target market determinations?**

- a) Limited impact, as the financial product provider will still need to ensure that consumers using their products direct meet the TMD and complaints from advised clients will be reported.
- b) May become slightly shorter as the wording related to relevant providers could be amended (eg when using within a portfolio).

Transition and enforcement

13. What transitional arrangements are necessary to implement these reforms?

These are significant changes, and as such transitional arrangements should be allowed to be phased in on a scalable basis, at different times for different things and different users. For example, advisers may choose to remove FDSs immediately and use a standard fee form, but product providers may not be able to accept them until system changes occur. We have previously suggested using super stream, and other government systems may facilitate more consistent use of and improve the client experience.

Some practical considerations will impact the phasing eg changing systems to produce new advice documents, dealing with standardised forms, single advice fee deductions, etc.

Whilst a reasonable transition time should be allowed, there should also be deadlines by which time the changes must have occurred.

Regulators will need to take a facilitative approach as well.